IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7112 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? YES : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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DIVISIONAL CONTROLLER

Versus

RD SAYANIA

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Appearance:

MR KM PARIKH for Petitioner

MR JS BRAHMBHATT for Respondent No. 1

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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 25/01/2000

ORAL JUDGEMENT

1. On a joint request of the learned counsel for the respective parties, this petition is taken up for final hearing today.

2. This is a petition under Article 227 of the

Constitution at the instance of the Gujarat State Road Transport Corporation, employer of the respondent conductor.

3. The short issue involved in this petition is as regards the fit and proper quantum of punishment which should be imposed upon the respondent employee, looking to the facts and circumstances of the case.

4. The respondent employee was charged with misconduct for not having collected the appropriate fare from the passengers on the day in question, and such fare not collected was in respect of 12 passengers. It may be noted that this was a bus on a city route where bus stops are relatively frequent and at closer intervals than on rural intercity routes. Ultimately, as a result of the enquiry, the disciplinary authority imposed a punishment of stoppage of one increment without permanent effect. This punishment was taken in review before the reviewing authority and the punishment was increased by reverting the respondent employee to the start of the scale which was challenged by the respondent employee by way of a reference before the Industrial Tribunal.

The Tribunal, after having considered all the relevant factors, revoked the order of punishment passed by the reviewing authority and instead, passed an order of stoppage of one increment with permanent effect.

5. It is this order of punishment imposed by the Tribunal which is the subject matter of the present petition.

6. I have heard the learned counsel for the respective parties on the question of just and appropriate punishment and have referred to such evidence on record to which my attention has been drawn. Learned counsel for the petitioner suggests that a fit and appropriate punishment would be stoppage of three increments with permanent effect. As against this, learned counsel for the respondent workman suggests that a punishment of stoppage of two increments with permanent effect may be appropriate. He however ultimately leaves the question of fit and appropriate punishment to the discretion of the Court.

7. Taking an overall view of the matter and particularly, to the history sheet of the respondent employee, I am of the view that the fit and appropriate punishment on the facts and circumstances of the case would be stoppage of three increments with permanent

effect. It is accordingly so held and directed. The impugned judgement and award of the Tribunal shall stand modified accordingly.

8. This petition is therefore partly allowed to the aforesaid extent and the rule is made partly absolute with no orders as to costs.

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